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My Lords,

I refer to the debate regarding the **Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2024**, the **Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2024** and the **Pneumoconiosis etc. (Workers' Compensation) (Specified Diseases and Prescribed Occupations) (Amendment) Regulations 2024**, which took place on Monday 19 February 2024.

I would like to thank all Noble Lords who attended, and in particular those who contributed to the debate. I hope that I responded to most of Noble Lords' questions during the debate. However, I would like to take this opportunity to clarify some of the points that I laid out during my closing remarks.

As I mentioned in my opening remarks, as of Friday 16 February 2024, the Department was holding 94 claims made for lump-sum payments under the 1979 Act scheme. These claims have been held since September 2023 as, at the time of their claim, it was not possible to establish entitlement under the existing legislation. Now that the **Pneumoconiosis etc. (Workers' Compensation) (Specified Diseases and Prescribed Occupations) (Amendment) Regulations 2024** have been approved by Parliament, our priority is to process these claims as quickly as possible.

Regarding held claims, Lady Sherlock, and Lord Allan of Hallam, asked whether any customers would receive lower lump-sum awards as a result of their cases being held since September. Broadly speaking, payments to sufferers under the 1979 Act scheme are based on the customer's age when they were assessed as suffering with the relevant disease for the purposes of Industrial Injuries Disablement Benefit (IIDB) entitlement – I can confirm that IIDB claims for these two diseases have been processed as normal and therefore this issue does not affect the value of the lump-sum awards for the held claims. I would also like to reassure Peers that, if there are any customers who made a 1979 Act scheme claim in life but have since passed away, their estate will be awarded the full amount that would have been payable had the sufferer not passed away before their claim was determined.

Lord Allan also asked whether any claimants may have missed out historically as a result of the divergence between the IIDB legislation and the 1979 Act scheme legislation. Again, the Department understands that historic claims made for the two affected conditions will have already received lump-sum payments. This is because the Department was using diseases set out in the IIDB legislation when considering entitlement to a lump-sum award under the 1979 Act scheme prior to September 2023. These claimants have, therefore, not missed out on a payment because this legislative change was not made sooner. I can also confirm that the Department will not seek to recover any money that has already been paid out, due to this issue.

Customers with asbestos-related primary carcinoma of the lung (without asbestosis), and / or unilateral diffuse pleural thickening who believe they are now entitled to a payment under the 1979 Act scheme, and whose claims are not being held by the Department, should make a claim via the usual processes. Customers with these diseases will now be considered for a lump-sum award under the 1979 Act scheme, subject to meeting the wider eligibility criteria. Information on the 1979 Act scheme is published on the GOV.UK website. The Department also highlights the availability of the 1979 Act scheme to IIDB claimants in official letters (for example, when a claimant is awarded IIDB for one of the diseases covered by the 1979 Act scheme).

Lord Allan of Hallam also asked for some clarification on how the uprating coming into force from 1 April 2024 impacts customers, and who will benefit from the 2024/25 rates. In the most general terms, under the 1979 Act scheme, a sufferer must have been assessed as having one of the diseases covered by the 1979 Act scheme for Industrial Injuries Disablement Benefit purposes. The rates payable to sufferers under the 1979 Act scheme are calculated according to:

- the age of the person at the date the Department determined they were suffering from the disease for IIDB purposes; and
- the person's assessed level of disablement in respect of their disease.

For sufferer claims made under the 1979 Act scheme, the Department applies the lump-sum compensation rates that were in force at the date of the IIDB determination. As I outlined during the debate, the uprated rates for 2024/25 will apply only in relation to any case in which a person first fulfils the conditions of entitlement for a payment under the 1979 Act scheme on or after 1 April 2024. Therefore, a sufferer who makes a claim under the 1979 Act scheme after 1 April 2024, but who was assessed as suffering from one of the relevant diseases for IIDB purposes (and therefore first fulfilled the conditions of entitlement) in February 2024, would receive a payment based on the 2023/24 award rates.

For the 2008 Act scheme, payments to sufferers are generally based on the sufferer's age at the date they were diagnosed with diffuse mesothelioma. For sufferers, uprated rates for 2024/25 will apply only where they were first diagnosed

with diffuse mesothelioma on or after 1 April 2024. A sufferer who makes a claim to the 2008 Act scheme after 1 April 2024, who was first diagnosed with diffuse mesothelioma in February 2024, would receive a payment based on the 2023/24 award rates.

Both situations outlined above are in line with the long-standing procedures used to process claims under these two lump-sum schemes.

On the topic of asbestos management in public buildings, Lady Finlay raised a suggestion regarding air quality monitoring in schools. I would like to address her point by saying that Great Britain does not require routine air sampling as part of the 'duty to manage', as little or no airborne asbestos fibres would be detected under normal circumstances. In addition, damaged asbestos is unlikely to be emitting fibres continuously and once released, the fibres will be diluted and dispersed rapidly. It is therefore the position of the Health and Safety Executive that prevention of the release of airborne fibres, so far as possible, is better than detection.

Lady Sherlock asked what action is being taken to protect staff, students and patients from the risks of asbestos exposure in public buildings. The Health and Safety Executive (HSE) has a mature and comprehensive regulatory framework to ensure the legacy asbestos risks in Great Britain are managed, that aligns with the best evidence currently available. This is reflected throughout the approaches outlined in the Control of Asbestos Regulations 2012 (CAR).

On her question relating to future mortality rates, there is always a degree of uncertainty in predicting future disease incidence. However current projections suggest that annual mesothelioma deaths in both males and females are expected to decline over the long-term, as a consequence of past reductions in asbestos exposure in both males and females.

Regarding the broader topic of medical research in this field, I would like to reiterate that the Government understands that research is crucial in the fight against cancer. The Department of Health and Social Care invested around £122 million in cancer research in 2022-23 through the National Institute for Health and Care Research (NIHR) and has been working actively to stimulate an increase in the level of mesothelioma research activity from a rather low base. This work includes a formal research priority-setting exercise, a National Cancer Research Institute workshop, and a specific call for research proposals through the National Institute for Health and Care Research. DHSC also works closely with research funding partners such as Cancer Research UK, the Medical Research Council, and lung charities, who fund research into new scientific discoveries.

I trust that you will find these clarifications helpful. I will place a copy of this letter in the House of Lords Library for reference.

*My best wishes
James Younger*

Viscount Younger of Leckie
Parliamentary – Under – Secretary of State